

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Rissie Davis)
Dist. 2, Map 38, Control Map 38, Parcel 81.00) Cumberland County
Farm Property)
Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$86,600	\$21,900	\$108,500	\$ -
USE	\$19,800	\$21,900	\$ 41,700	\$10,425

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 4, 2007 in Crossville, Tennessee. In attendance at the hearing were Sandra and Ollen Davis and Cumberland County Property Assessor's representative Mary Cox.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 22.5 acre tract improved with an 815 square foot dwelling and a 24 x 26 outbuilding.

The taxpayer contended that subject property should be valued at \$30,500. In support of this position, the taxpayer maintained that subject dwelling is in poor physical condition and should be appraised at \$8,000 in accordance with the administrative judge's decision in 2002. Mr. Davis testified that the house is utilized like a barn for storage and was last occupied five or six years ago. Mr. Davis stated that he cannot obtain insurance on the dwelling because of its condition, but he has chosen not to raze the home because of its sentimental value.

With respect to subject land, the taxpayer asserted that it should be appraised at \$1,000 per acre. In support of this position, Mr. and Mrs. Davis testified concerning the sale of a one acre parcel next door for \$1,500.

The assessor contended that subject property should remain valued at \$108,500. In support of this position, the property record card and three comparable sales were introduced into evidence. Ms. Cox asserted that the comparables support the current appraisal of subject property.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic

and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$99,500 by reducing the value of subject dwelling from \$21,398 to \$12,441. This results in a total improvement value of \$12,900 after rounding given the \$486 appraisal of the outbuilding.

Since the taxpayer is appealing from the determination of the Cumberland County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

Respectfully, the administrative judge finds that the taxpayer introduced insufficient evidence to establish the market value of subject land. Putting aside the lack of basic information about the sale, the administrative judge finds that it cannot provide a basis of valuation. The administrative judge finds that one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

The administrative judge finds that the sale was part of a divorce settlement and cannot be considered an arm's length transaction.

With respect to subject residence, the administrative judge finds that the assessor has classified it as "below average," but depreciated it by only 57%. The administrative judge finds that the relative lack of depreciation results, in part, from the use of an effective age of 1950. The administrative judge finds that the preponderance of the evidence supports adoption of a total of 75% depreciation.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$86,600	\$12,900	\$99,500	\$ -
USE	\$19,800	\$12,900	\$32,700	\$8,175

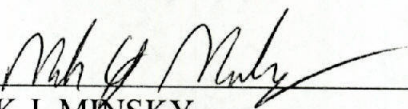
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 17th day of September, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Ollen J. Davis
Ralph Barnwell, Assessor of Property